

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 19, 2014

AMENDED IN ASSEMBLY MAY 20, 2014

AMENDED IN ASSEMBLY MAY 12, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1699**

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**Introduced by Assembly Member Bloom  
(Coauthors: Assembly Members Nestande and Stone)**

February 13, 2014

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An act to add Chapter 5.9 (commencing with Section 42360) to Part 3 of Division 30 of the Public Resources Code, relating to waste management.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1699, as amended, Bloom. Waste management: plastic microbeads.

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified. Existing law prohibits the sale of expanded polystyrene packaging material by a wholesaler or manufacturer. Existing law prohibits a person from

selling a plastic product in this state that is labeled with the term “compostable,” “home compostable,” or “marine degradable” unless, at the time of sale, the plastic product meets the applicable American Society for Testing and Materials standard specification.

This bill would prohibit, after January 1, 2019, a person, as defined, from selling or offering for promotional purposes in this state ~~any a~~ personal care product containing plastic microbeads, as specified. The bill would exempt from this prohibition the sale or promotional offer of a product containing less than 1 part per million (ppm) by weight of plastic microbeads, as provided.

The bill would make a violator liable for a civil penalty not to exceed \$2,500 per day for each violation. The bill would authorize the penalty to be assessed and recovered in a civil action brought in any court of competent jurisdiction by the Attorney General or local officials, as provided. The bill would require the civil penalties collected in an action brought pursuant to the act to be retained by the office of the Attorney General or local official who brought the action.

*The bill would declare that its provisions occupy the whole field of regulation of plastic microbeads and would prohibit a city, county, or other local public agency, on or after January 1, 2019, from adopting, enforcing, or otherwise implementing, an ordinance, resolution, regulation, or rule, or any amendment thereto, relating to plastic microbeads, except as expressly authorized.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 5.9 (commencing with Section 42360)  
2 is added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

4  
5 CHAPTER 5.9. PLASTIC MICROBEADS NUISANCE PREVENTION  
6 LAW  
7

8 42360. The Legislature finds and declares all of the following:

9 (a) Plastic does not biodegrade like other organic materials, but,  
10 upon exposure to the elements, photodegrades into smaller pieces,  
11 causing land and water pollution that is virtually impossible to  
12 remediate.

1 (b) Plastic pollution is the dominant type of anthropogenic debris  
2 found throughout the marine environment.

3 (c) Plastic pollution is an environmental and human health  
4 hazard and a public nuisance.

5 (d) Consumer personal care products such as facial scrubs,  
6 soaps, and toothpaste increasingly contain thousands of plastic  
7 microbead particles, ranging from 50 to 500 microns, which are  
8 flushed down drains as part of their intended use.

9 (e) Plastic microbeads in personal care products are not  
10 recoverable through ordinary wastewater treatment and so are  
11 released into the environment.

12 (f) Plastic microbeads of the size found in personal care products  
13 are ingested by marine organisms.

14 (g) Plastic microbeads attract other pollutants commonly present  
15 in the environment, many of which are recognized to have serious  
16 deleterious impacts on human health or the environment, including  
17 DDT, DDE, PCBs, and flame-retardants.

18 (h) Plastic microbeads have been found in surface waters within  
19 the United States, as well as in fish, marine mammals, and reptiles,  
20 and in the digestive and circulatory systems of mussels and worms.

21 (i) PAHs, PCBs, and PBDEs from plastic transfer to fish tissue  
22 during digestion and bioaccumulate, resulting in liver damage.

23 (j) Fish that humans consume have been found to ingest plastic  
24 microbeads.

25 (k) There are many biodegradable, natural alternatives to plastic  
26 microbeads that are economically feasible, as evidenced by their  
27 current use in some consumer personal care products.

28 42361. As used in this chapter, the following terms have the  
29 following meanings:

30 (a) "Person" means an individual, business, or other entity.

31 (b) (1) "Personal care product" means an article *that is* intended  
32 to be rubbed, poured, sprinkled, or sprayed on, introduced to, or  
33 otherwise applied to, the human body or any part thereof for  
34 cleansing, beautifying, promoting attractiveness, or altering the  
35 appearance, and *that may be rinsed off, including* an article  
36 intended for use as a component of such an article.

37 (2) "Personal care product" does not include a prescription drug,  
38 as defined in Section 110010.2 of the Health and Safety Code.

1 (c) “Plastic microbead” means an intentionally added plastic  
2 particle measuring five millimeters or less in size in every  
3 dimension.

4 42362. On or after January 1, 2019, a person shall not sell or  
5 offer for promotional purposes in this state any personal care  
6 products containing plastic microbeads.

7 42363. Section 42362 shall not apply to any person that sells  
8 or offers for promotional purposes a personal care product  
9 containing plastic microbeads in less than 1 part per million (ppm)  
10 by weight.

11 42364. (a) A person who violates or threatens to violate Section  
12 42362 may be enjoined in any court of competent jurisdiction.

13 (b) (1) A person who violates Section 42362 is liable for a civil  
14 penalty not to exceed two thousand five hundred dollars (\$2,500)  
15 per day for each violation in addition to any other penalty  
16 established by law. That civil penalty may be assessed and  
17 recovered in a civil action brought in any court of competent  
18 jurisdiction.

19 (2) In assessing the amount of a civil penalty for a violation of  
20 this chapter, the court shall consider all of the following:

21 (A) The nature and extent of the violation.

22 (B) The number of, and severity of, the violations.

23 (C) The economic effect of the penalty on the person.

24 (D) Whether the person took good faith measures to comply  
25 with this chapter and the time these measures were taken.

26 (E) The deterrent effect that the imposition of the penalty would  
27 have on both the person and the regulated community as a whole.

28 (F) Any other factor that justice may require.

29 (c) Actions pursuant to this section may be brought by the  
30 Attorney General in the name of the people of the state, by a district  
31 attorney, by a city attorney of a city having a population in excess  
32 of 750,000 persons, or, with the consent of the district attorney,  
33 by a city prosecutor in a city or city and county having a full-time  
34 city prosecutor.

35 42367. The civil penalties collected pursuant to Section 42364  
36 shall be retained by the office of the city attorney, city prosecutor,  
37 district attorney, or Attorney General, whichever office brought  
38 the action.

39 42368. (a) This chapter does not alter or diminish any legal  
40 obligation otherwise required in common law or by statute or

1 regulation, and this chapter does not create or enlarge any defense  
2 in any action to enforce the legal obligation. Penalties and sanctions  
3 imposed under this chapter shall be in addition to any penalties or  
4 sanctions otherwise prescribed by law.

5 *(b) This chapter addresses a matter of statewide interest and*  
6 *concern and is applicable uniformly throughout the state.*  
7 *Accordingly, this chapter occupies the whole field of regulation*  
8 *of plastic microbeads, except as provided in subdivision (a).*

9 *(c) On and after January 1, 2019, a city, county, or other local*  
10 *public agency shall not adopt, enforce, or otherwise implement,*  
11 *an ordinance, resolution, regulation, or rule, or any amendment*  
12 *thereto, relating to plastic microbeads, except as expressly*  
13 *authorized by this chapter.*